

NEXUS BANKRUPTCY
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re:

JARED HUNTER SCARTH,

Debtor.

Case No.: 6:23-bk-10960-WJ

Chapter 13

DECLARATION OF JARED
HUNTER SCARTH IN SUPPORT OF
OPPOSITION TO MOTION TO
DISMISS FOR BAD FAITH

I, Jared Scarth, declare as follows:

I am the Debtor in this Chapter 13 bankruptcy case. I have personal knowledge of all matters stated herein. On all matters stated on information and belief, I believe those allegations to be true. I could competently testify to the allegations contained herein.

I am the former owner of Lincoln James Investments, which was a holding company for a commercial property which housed my business, Scarth and Associates, Inc., and another tenant. The property had several million dollars of equity and was facing foreclosure.

On August 28, 2023, I met with Todd Turoci ("T. Turoci") to inquire into filing a Chapter 11 bankruptcy for the business. T. Turoci quoted me approximately \$17,000 as a retainer fee, which I did not have. T. Turoci asked me about my personal assets – specifically, my residence and the amount of equity in it. T. Turoci offered to pay himself through his company, Western Star Financial ("WSF"), and place a lien against my property in exchange. I felt that I had no reasonable alternative and, given the

1 foreclosure, I did not have time to carefully consider the transaction. At this same
2 meeting on August 28, 2023, I agreed to these terms. On August 28 or 30, 2023, I
3 executed a deed of trust in favor of WSF in the amount of \$20,000.

4 The business was running low on operating funds almost immediately after the
5 case was filed. T. Turoci told me that I should talk to his brother, Christopher Turoci
6 (“C. Turoci”) about getting another loan through his company, Prominence Capital
7 Partners (“PCP”). When I spoke with C. Turoci, he already knew the circumstances of
8 the Chapter 11 case as well as key details regarding my residence and its equity. On or
9 about October 2, 2017, I signed a deed of trust, assignment of rents, fixture filing, and
10 security agreement in the amount of \$17,250.

11 Throughout the short-lived Chapter 11 case, T. Turoci deed not keep me informed
12 of certain payment obligations, including the hard money loan that had precipitated the
13 filing in the first place. As a result, the lender filed a motion for relief from stay and
14 obtained an order thereon. The commercial property was foreclosed on shortly
15 thereafter. The case was then converted to a Chapter 7 and no further assets were
16 liquidated.

17 Around the time that relief from stay was granted, I was advised by either T.
18 Turoci or Gary Saunders that filing a personal Chapter 7 could stop or delay the
19 foreclosure and would wipe out my wife and I’s personal liability on the business debts.
20 We filed this case on January 17, 2018 as an emergency petition and spent the next two
21 weeks preparing the additional documents for completing the petition. The case was
22 dismissed after approximately two weeks due to the PDF missing a page from the Means
23 Test. We refiled on April 18, 2018 and received our discharge on July 30, 2018. The case
24 lingered on for quite some time due to the Chapter 7 Trustee trying to liquidate a
25 property that my wife and I owned in Maryland. The Maryland property was foreclosed
26 on and the only asset that was administered in the case was approximately \$6,000 of
27 cash that was tendered to the Trustee in lieu of a vehicle that appeared to have non-
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1 exempt equity.

2 On December 19, 2019, I filed a Chapter 7 for Scarth and Associates which, by
3 this time, had completely ceased operating. The case was closed as a no-asset case on
4 January 26, 2020.

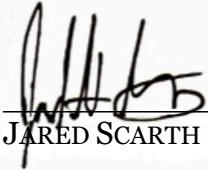
5 My wife and I were of the understanding that all of the debts referenced above
6 had been discharged due to the failure of the business and our personal Chapter 7
7 discharge. It was not until May of 2020 that we discovered that the Turocis were still
8 maintaining their liens against our property and C. Turoci demanded that we start
9 making payments. Despite making monthly payments at C. Turoci's behest, he filed a
10 Notice of Default in July of 2020 and then against in November of 2022. We ultimately
11 decided to hire an attorney to handle the case once C. Turoci filed a Notice of Trustee
12 Sale in February of 2023.

13 Immediately after we filed the instant bankruptcy proceeding, C. Turoci sent us
14 an email which requested that we speak about settlement. The email further indicated
15 that he could not speak with us directly about this since we were represented by counsel.
16 A true and correct copy of this email is attached to our Opposition.

17 On March 24, 2023, C. Turoci sent my wife and I a text message threatening us to
18 settle or else "get put in a bad spot". A true and correct copy of this text message is
19 attached to the Opposition.

20 I declare under penalty of perjury under the laws of the United States that the
21 foregoing is true and correct.

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23 Date: March 26, 2023

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JARED SCARTH

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**100 Bayview Circle, Suite 100
Newport Beach, CA 92660**

A true and correct copy of the foregoing document entitled (*specify*): **DECLARATION OF JARED HUNTER SCARTH IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 3/27/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Rod Danielson (TR) notice-efile@rodan13.com
Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com
Brandon J Iskander biskander@goeforlaw.com, kmurphy@goeforlaw.com
Ali Matin ali.matin@usdoj.gov, carolyn.k.howland@usdoj.gov
Valerie Smith claims@recoverycorp.com
United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov
Jennifer C Wong bknotice@mccarthyholthus.com, jwong@ecf.courtdrive.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 3/27/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Judge Wayne E. Johnson
3420 Twelfth Street
Suite 384 / Courtroom 304
Riverside, CA 92501-3819

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed (state method for each person or entity served):

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

3/27/2023
Date

Benjamin Heston
Printed Name

/s/Benjamin Heston
Signature